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JAY-Y ENTERPRISE CO., INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAY-Y ENTERPRISE CO., INC.,

Plaintiff,

v.

TIME PLAZA, INC., AAB  
ENTERPRISE, INC., TRIO BROTHERS  
TRADING USA, INC., SOUTH BAY  
TRADING, INC., SA TRADING, INC.,  
WWW.SUNSHARKEYWEAR.COM,  
MICHAEL QIN, and DOES 1-10,  
Defendants.

Case No. CV08-07600 FMC(RZx)

**SECOND AMENDED  
COMPLAINT FOR  
TRADEMARK INFRINGEMENT,  
PATENT INFRINGEMENT, AND  
RELATED CLAIMS**

**DEMAND FOR JURY TRIAL**

Plaintiff JAY-Y ENTERPRISE CO., INC. brings this Complaint against Defendants TIME PLAZA, INC., AAB ENTERPRISE, INC., TRIO BROTHERS TRADING USA, INC., SOUTH BAY TRADING, INC., SA TRADING, INC., WWW.SUNSHARKEYWEAR.COM, and MICHAEL QIN (collectively, "Defendants"), to halt Defendants' ongoing infringement of Plaintiff's valuable trademark and patent rights. In support of its Complaint, Plaintiff alleges:

Parties, Jurisdiction and Venue

1  
2  
3 1. Plaintiff is a California corporation with its principal place of business  
4 within this district, located at 632 New York Dr., Pomona, California 91768.  
5 Plaintiff is primarily in the business of designing, developing, marketing,  
6 distributing and selling sunglasses.

7 2. On information and belief, Defendant TIME PLAZA, INC. ("Time  
8 Plaza") is a California corporation with its principal place of business within this  
9 district, located at 9329 Klingerman Street, South El Monte, California 91733.

10 3. On information and belief, Defendant AAB ENTERPRISE CO., INC.  
11 ("AAB Enterprise") is a California corporation with its principal place of business  
12 within this district, located at 350 S. Los Angeles St., Los Angeles, CA 90013.

13 4. On information and belief, Defendant TRIO BROTHERS TRADING  
14 USA, INC. ("Trio Brothers Trading") is a now-dissolved California corporation  
15 with its principal place of business within this district, located at 605 S Milliken  
16 Avenue Suite E, Ontario, California 91761. Trio Brothers Trading was operating  
17 at all times relevant herein and, on information and belief, was dissolved by  
18 affirmative action of the corporation pursuant to a Certificate of Dissolution dated  
19 June 19, 2008 in an attempt to shield itself and its shareholders from liability for its  
20 wrongful conduct. On information and belief, at all times relevant herein, the  
21 Chief Executive Officer, Secretary, Chief Financial Officer, sole director, and  
22 registered agent of Trio Brothers Trading was defendant Michael Qin.

23 5. This Complaint is brought against Trio Brothers Trading pursuant to  
24 Cal. Corp. Code section 2011 which authorizes this court to enforce causes of  
25 action against a dissolved corporation, whether arising before or after the  
26 dissolution of the corporation, to the extent of its undistributed assets, including,  
27 without limitation, insurance assets held by the corporation that may be available  
28 to satisfy claims. This Complaint is further brought against the unidentified

1 shareholders of Trio Brothers Trading, sued in the corporate name pursuant to Cal.  
2 Corp. Code section 2011(a)(3), and as DOES 1-10.

3 6. On information and belief, Defendant SOUTH BAY TRADING INC.  
4 (“South Bay Trading”) is a California corporation with its principal place of  
5 business within this district, located at the same address as Trio Brothers Trading,  
6 namely, 605 S Milliken Avenue Suite E, Ontario, California 91761. On  
7 information and belief, at all times relevant herein, the Chief Executive Officer,  
8 Secretary, Chief Financial Officer, sole director, and registered agent of South Bay  
9 Trading is defendant Michael Qin.

10 7. On information and belief, Defendant SA TRADING, INC. (“SA  
11 Trading”) is a California corporation with its principal place of business within this  
12 district, located at 1523 Big Sur Lane, West Covina, California 91791. On  
13 information and belief, at all times relevant herein, the Chief Executive Officer,  
14 Secretary, Chief Financial Officer, sole director, and registered agent of SA  
15 Trading is defendant Michael Qin. On information and belief, SA Trading  
16 imported sunglasses from China in late June 2008, shortly after Trio Brothers  
17 Trading was dissolved.

18 8. On information and belief, Defendant  
19 WWW.SUNSHARKEYEWEAR.COM (“Sun Shark Eyewear”) is an  
20 unincorporated business operating within this district, located at the same address  
21 as Trio Brothers and South Bay Trading, namely, 605 S Milliken Avenue Suite E,  
22 Ontario, California 91761. The www.sunsharkeyewear.com domain name is  
23 registered to both Trio Brothers Trading and Defendant Michael Qin. The Sun  
24 Shark Eyewear web site home page prominently bears the word “Trio” above a  
25 drawing of sunglasses and states in smaller type at the bottom of the page  
26 “powered by: Trio Eyewear.”

27 9. On information and belief, Defendant MICHAEL QIN is an  
28 individual residing within this district and doing business within this district at 605

1 S Milliken Avenue Suite E, Ontario, California 91761 and at 1523 Big Sur Lane,  
2 West Covina, California 91791.

3 10. On information and belief, Sun Shark Eyewear was owned and  
4 operated by Trio Brothers Trading until Trio Brothers Trading was dissolved. On  
5 information and belief, Sun Shark Eyewear is now owned and operated by one or  
6 more of the following: Michael Qin, South Bay Trading, or SA Trading.

7 11. On information and belief, the business that Trio Brothers Trading  
8 engaged in prior to its dissolution is now being carried on by one or more of the  
9 following successor entities or individuals: South Bay Trading, SA Trading, Sun  
10 Shark Eyewear and Michael Qin. On information and belief, Trio Brothers  
11 Trading, South Bay Trading, SA Trading, and Sun Shark Eyewear are all alter egos  
12 of Michael Qin and of one another.

13 12. On information and belief each of the defendants Trio Brothers  
14 Trading, South Bay Trading, SA Trading, Sun Shark Eyewear and Michael Qin  
15 (collectively referred to herein as "Qin Defendants") have acted and are acting in  
16 concert with each other to directly commit or to assist each other to commit the  
17 wrongful activities alleged herein.

18 13. On information and belief, there has existed a unity of interest and  
19 ownership between and among the Qin Defendants such that any individuality and  
20 separateness between and among the Qin Defendants has ceased, and such that  
21 each is the alter ego of the others; in that:

22 A. Each of the Qin Defendants has at certain relevant times  
23 completely controlled, led, dominated, managed and operated each of the other Qin  
24 Defendants, and has intermingled his, her or its own assets with those of the other  
25 Qin Defendants to suit his, her or its convenience.

26 B. Each of the Qin Defendants has used assets of each of the other  
27 Qin Defendants for his, her or its own use, and has caused or will cause the assets  
28

1 of each of the other Qin Defendants to be transferred to him, her or it without  
2 adequate consideration.

3 C. Each of the Qin Defendants is, and at all times herein  
4 mentioned was, a mere shell, instrumentality, and conduit through which the other  
5 Qin Defendants each has carried on its businesses, exercising complete control and  
6 dominance of the Qin Defendants to such an extent that any individuality or  
7 separateness of the defendants does not, and at all times herein mentioned did not,  
8 exist.

9 D. Each of the Qin Defendants is, and at certain relevant times  
10 was, a mere shell and sham without sufficient capital or assets, or that its  
11 capitalization was trifling, compared with the business to be done and the risks of  
12 loss attendant thereto.

13 E. Each of the Qin Defendants was intended, and was used by  
14 each of the other Qin Defendants as a device to avoid the imposition of liability,  
15 and for the purpose of substituting a financially insolvent company in his, her, or  
16 its place.

17 F. Adherence to the fiction of the separate existence of each of the  
18 Qin Defendants as a distinct entity would permit an abuse of the corporate  
19 privilege and would sanction fraud and promote injustice in that certain of the Qin  
20 Defendants have distributed or will distribute a substantial portion of their assets to  
21 certain other Qin Defendants without adequate consideration, all for the purpose of  
22 avoiding and preventing attachment and execution by creditors of each of the Qin  
23 Defendants, including Plaintiff, thereby rendering each of the Qin Defendants  
24 insolvent and unable to meet its obligations.

25 14. Plaintiff is ignorant of the true names and capacities of the Defendants  
26 sued herein as Does 1 to 10, and therefore sue these Defendants by their fictitious  
27 names. On information and belief, DOES 1-10 (the "Trio Shareholders") are the  
28 individuals or entities that owned the shares of Trio Brothers Trading at the time of

1 its dissolution and/or are managing agents of Trio Brothers Trading with direct  
2 involvement in the conduct alleged. Plaintiffs will amend this Complaint to allege  
3 the true names and capacities of Does 1 to 10 when ascertained.

4 15. This Complaint is brought against the Trio Shareholders pursuant to  
5 Cal. Corp. Code section 2011, which provides in pertinent part that, if assets of a  
6 dissolved corporation have been distributed to the shareholders, a cause of action  
7 against the corporation arising either before or after the dissolution may be  
8 enforced against the shareholders to the extent of their pro rata share of the claim  
9 or to the extent of the corporate assets distributed to them on dissolution,  
10 whichever is less.

11 16. On information and belief, at all times relevant herein, each Defendant  
12 was the agent, servant, employee, principal, successor, alter ego, and/or partner of  
13 each other Defendant, acting within the course and scope of such capacities and  
14 with the permission and consent of each other in doing the acts and engaging in the  
15 conduct alleged herein. Wherever in this pleading reference is made to any act of a  
16 Defendant, such allegation shall be deemed to mean the acts of the Defendants  
17 named in that particular cause of action, and each of them, acting individually,  
18 jointly and severally.

19 17. This Complaint arises under the Lanham Act, 15 U.S.C. § 1051, et.  
20 seq., the United States Patent Act, 35 U.S.C. § 1, et. seq., California Business and  
21 Professions Code Sections 14200 et. seq., and under the common law. This Court  
22 has jurisdiction over Plaintiff's federal claims pursuant to 15 U.S.C. § 1121 and 28  
23 U.S.C. §§ 1331 and 1338(a). Jurisdiction over Plaintiff's state law claims and  
24 common law unfair competition claim lies under 28 U.S.C. §§ 1338(b) and  
25 1367(a).

26 18. Venue is proper under 28 U.S.C. § 1391(b).  
27  
28

Plaintiff's Trademark and Patent Rights

19. Plaintiff first adopted and began using the LOCS mark no later than September 1, 2005. Plaintiff has used the LOCS mark as a trademark in connection with sunglasses continuously since then.

20. Plaintiff applied for United States Trademark Registration No. 3,418,299 for the LOCS mark on January 26, 2006. United States Trademark Registration No. 3,418,299 for the LOCS mark issued to Plaintiff on April 29, 2008. A copy of this registration is attached as Exhibit A.

21. Plaintiff is the owner of United States Patent Registration No. D545,348 for a sunglasses design. A copy of this registration is attached as Exhibit B.

Defendant Time Plaza's Wrongful Conduct

22. On information and belief, Defendant Time Plaza began using the LOCS mark in connection with sunglasses on February 1, 2007, seventeen (17) months after Plaintiff began selling sunglasses bearing the LOCS mark and more than a year after Plaintiff applied for United States Trademark Registration No. 3,418,299 for the LOCS mark. Defendant Time Plaza is not, and never has been, authorized by Plaintiff to use the LOCS mark.

23. On information and belief, Defendant Time Plaza applied for California State Trademark Registration No. 0112431 for the LOCS mark for "sunglasses and eye-glasses" on February 27, 2007. A copy of this registration is attached as Exhibit C.

24. On information and belief, Defendant Time Plaza had actual knowledge of Plaintiff's use of the LOCS mark in connection with sunglasses at the time Defendant adopted and began using the LOCS mark.

25. On information and belief, Defendant Time Plaza applied for and registered California State Trademark Registration No. 0112431 for the LOCS mark in violation of the Model State Trademark Law as adopted in California.



1           26. On information and belief, Defendant Time Plaza procured California  
2 State Trademark Registration No. 0112431 for the LOCS mark by declaring that to  
3 its “best knowledge and belief no other person firm, corporation, union or  
4 association has the right to use said mark in this state, either in identical form or in  
5 such near resemblance thereto as might be calculated to deceive or confuse”  
6 knowing such that declaration was false and fraudulent.

7           27. Defendant Time Plaza’s use of the LOCS mark in connection with  
8 sunglasses is likely to cause confusion or mistake or to deceive the consuming  
9 public into believing that Defendant Time Plaza is affiliated, connected, sponsored,  
10 approved, or otherwise associated with Plaintiff.

11           28. On information and belief, Defendant Time Plaza began selling  
12 sunglasses that fall within the scope of Plaintiff’s United States Patent Registration  
13 No. D545,348 after Plaintiff obtained United States Patent Registration No.  
14 D545,348. Defendant Time Plaza is not, and never has been, authorized by  
15 Plaintiff to sell sunglasses that fall within the scope of United States Patent  
16 Registration No. D545,348.

17           29. Plaintiff requested in several letters and conversations since April  
18 2008 that Defendant Time Plaza cease using the LOCS mark, assign California  
19 State Trademark Registration No. 0112431 to Plaintiff, and cease selling  
20 sunglasses that fall within the scope of Plaintiff’s United States Patent Registration  
21 No. D545,348. Defendant Time Plaza has refused to comply with Plaintiff’s  
22 requests.

23                           Defendant AAB Enterprise’s Wrongful Conduct

24           30. On information and belief, on or around March 16, 2009 Defendant  
25 AAB Enterprise attempted to import twenty-one-thousand sunglasses bearing the  
26 LOCS mark. In May, 2009 Plaintiff received the notice that such shipment was  
27 seized by U.S. Customs and Border Protection.  
28



1           31. On information and belief, Defendant AAB Enterprise intended to  
2 distribute and sell, either at retail or wholesale, the sunglasses seized in March  
3 2009 bearing the LOCS mark. On information and belief Defendant AAB  
4 Enterprise has imported, distributed and sold in the past, and unless enjoined will  
5 continue to import, distribute and sell, sunglasses bearing the LOCS mark.  
6 Defendant AAB Enterprise is not, and never has been, authorized by Plaintiff to  
7 use the LOCS mark.

8           32. On information and belief, Defendant AAB Enterprise had actual and  
9 constructive knowledge of Plaintiff's use and registration of the LOCS mark in  
10 connection with sunglasses at the time Defendant AAB Enterprise began  
11 importing, distributing and selling sunglasses bearing the LOCS mark.

12           33. Defendant AAB Enterprise's use of the LOCS mark in connection  
13 with sunglasses is likely to cause confusion or mistake or to deceive the consuming  
14 public into believing that Defendant AAB Enterprise is affiliated, connected,  
15 sponsored, approved, or otherwise associated with Plaintiff.

16                           The Qin Defendants' Wrongful Conduct

17           34. On information and belief, the Qin Defendants began using the LOCS  
18 mark in connection with sunglasses after Plaintiff began selling sunglasses bearing  
19 the LOCS mark. The Qin Defendants are not, and never have been, authorized by  
20 Plaintiff to use the LOCS mark.

21           35. On information and belief, the Qin Defendants had actual knowledge  
22 of Plaintiff's use of the LOCS mark in connection with sunglasses at the time the  
23 Qin Defendants adopted and began using the LOCS mark.

24           36. The Qin Defendants' use of the LOCS mark in connection with  
25 sunglasses is likely to cause confusion or mistake or to deceive the consuming  
26 public into believing that the Qin Defendants are affiliated, connected, sponsored,  
27 approved, or otherwise associated with Plaintiff.

28



1                                   **SECOND CLAIM FOR RELIEF**  
2                                   FALSE DESIGNATION OF ORIGIN  
3                                   IN VIOLATION OF § 43(a) OF THE LANHAM ACT  
4                                   (Against All Defendants)

4           44.   Plaintiff repeats and realleges Paragraphs 1 to 41.

5           45.   Defendants' activities, as alleged above, constitute unfair competition  
6 and false designation of origin in violation of Lanham Act § 43(a), 15 U.S.C.  
7 § 1125(a).

8                                   **THIRD CLAIM FOR RELIEF**  
9                                   IMPROPER REGISTRATION  
10                                  IN VIOLATION OF MODEL STATE TRADEMARK LAW  
11                                  (Against Defendant Time Plaza, Inc.)

11          46.   Plaintiff repeats and realleges Paragraphs 1 to 41.

12          47.   Defendant Time Plaza improperly and fraudulently obtained  
13 California State Trademark Registration No. 0112431 in violation of Article 2  
14 Section 14205(f) of the Model State Trademark Law, as adopted in California (Bus  
15 & Prof. Code § 14205(f)).

16          48.   Based on the foregoing, Defendant is liable to pay all damages  
17 sustained as a consequence of the filing or registration, pursuant to Section 14240  
18 of the Model State Trademark Law, as adopted in California (Bus & Prof. Code  
19 § 14240).

20          49.   Based on the foregoing, Plaintiff is entitled to an order canceling  
21 Defendant's registration, pursuant to Section 14254 of the Model State Trademark  
22 Law, as adopted in California (Bus & Prof. Code § 14254).

23                                   **FOURTH CLAIM FOR RELIEF**  
24                                   COMMON LAW UNFAIR COMPETITION  
25                                   (Against All Defendants)

26          50.   Plaintiff repeats and realleges Paragraphs 1 to 41.

27          51.   Defendant Time Plaza's and the Qin Defendants' activities, as alleged  
28 above, constitute unfair competition in violation of the common law.

1           52. Based on the foregoing, Plaintiff is entitled to an order enjoining  
2 Defendants from continuing to commit the wrongful conduct alleged.

3                           **FIFTH CLAIM FOR RELIEF**  
4                           PATENT INFRINGEMENT  
5                           IN VIOLATION OF § 271 OF THE U.S. PATENT ACT  
6                           (Against All Defendants except AAB Enterprise, Inc.)

7           53. Plaintiff repeats and realleges Paragraphs 1 to 36.

8           54. Defendant Time Plaza's and the Qin Defendants' activities, as alleged  
9 above, constitute patent infringement in violation of the United States Patent Act,  
10 35 U.S.C. § 271.

11                           **PRAYER FOR RELIEF**

12           WHEREFORE, Plaintiff respectfully requests that the Court enter an Order:

13                   (A) Enjoining Defendant Time Plaza, Defendant AAB Enterprise  
14 and the Qin Defendants and each of their servants, employees, agents,  
15 representatives, affiliates and all persons acting on behalf or at the direction  
16 of, or in concert or participation with, each of them from:

17                           (i) Using any trademark, service mark, or trade name  
18 incorporating the LOCS mark, or which is confusingly similar to the  
19 LOCS mark;

20                           (ii) Representing in any manner that any of Defendants'  
21 goods or services are affiliated, connected, sponsored, approved or  
22 otherwise associated with Plaintiff, or vice versa; and

23                           (iii) Taking any other action likely to cause confusion,  
24 mistake or deception as to the source or origin of Defendants' goods  
25 or services or of Plaintiff's goods or services.

26                   (B) Enjoining Defendant Time Plaza and the Qin Defendants and  
27 each of their servants, employees, agents, representatives, affiliates and all  
28 persons acting on behalf or at the direction of, or in concert or participation  
with, each of them from infringing United States Patent No. D545,348.

1 (C) Directing Defendant Time Plaza, Defendant AAB Enterprise  
2 and each Qin Defendant to file with the Court and serve on Plaintiff within  
3 thirty days after entry and service on Defendant of such injunction a report  
4 in writing under oath setting forth in detail the manner and form in which  
5 Defendant has complied with the injunction;

6 (D) Requiring Defendant Time Plaza, Defendant AAB Enterprise  
7 and the Qin Defendants to deliver up to Plaintiff for destruction all labels,  
8 signs, prints, business cards, forms, packages, wrappers and all advertising  
9 or promotional material in the possession, custody, or control of Defendants  
10 bearing the LOCS mark or any other name or mark which is confusingly  
11 similar to the LOCS mark, as well as all plates, molds, matrices, and other  
12 means of making the same;

13 (E) Canceling California State Trademark Registration No.  
14 0112431;

15 (F) Requiring Defendant Time Plaza and the Qin Defendants to  
16 deliver up to Plaintiff for destruction all products infringing United States  
17 Patent No. D545,348 and all advertising or promotional material for such  
18 products in the possession, custody, or control of Defendants, as well as all  
19 plates, molds, matrices, and other means of making the same;

20 (G) Awarding Plaintiff compensatory damages for its losses and an  
21 accounting of Defendant Time Plaza's, Defendant AAB Enterprise's and the  
22 Qin Defendants' profits from its acts of infringement and unfair competition,  
23 including interest thereon, and trebling such award of profits and damages  
24 because of the deliberateness and willfulness of Defendants' acts;

25 (H) Requiring Defendant Time Plaza, Defendant AAB Enterprise and  
26 the Qin Defendants to pay Plaintiff's reasonable costs and attorneys' fees  
27 incurred in this action;  
28

1 (I) With respect to the dissolved corporation Trio Brothers  
2 Trading, enforcing the judgment of this Court to the extent of Trio Brothers  
3 Trading's undistributed assets, including, without limitation, insurance  
4 assets held by Trio Brothers Trading that may be available to satisfy claims;

5 (J) With respect to the dissolved corporation Trio Brothers  
6 Trading, enforcing the judgment of this Court against each of the Trio  
7 Shareholders to the extent of their pro rata share of the claim or to the extent  
8 of the corporate assets distributed to them on dissolution, whichever is less;  
9 and

10 (K) Awarding Plaintiff such other and further relief as this Court  
11 deems just and proper.

12 Respectfully Submitted,

13 Dated: May 26, 2009

14 OVERHAUSER LAW OFFICES, LLC

15  
16 By: s/Paul B. Overhauser  
17 Paul B. Overhauser, Esq.

18 Gregg A. Rapoport  
19 BUSINESS LEGAL PARTNERS,  
20 Attorneys at Law, Law Corp.

21 Attorneys for Plaintiff  
22 JAY-Y ENTERPRISE CO., INC.  
23  
24  
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26  
27  
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: May 26, 2009

OVERHAUSER LAW OFFICES, LLC

By: s/Paul B. Overhauser  
Paul B. Overhauser, Esq.

Gregg A. Rapoport  
BUSINESS LEGAL PARTNERS,  
Attorneys at Law, Law Corp.

Attorneys for Plaintiff  
JAY-Y ENTERPRISE CO., INC.

Exhibit A	Plaintiff's US Trademark Reg. No. 3,418,299 for LOCS
Exhibit B	Plaintiff's US Design Patent Reg. No. D545,348 for eyeglasses
Exhibit C	Defendant Time Plaza's California Trademark Reg. No. 0112431 for LOCS



Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,418,299

United States Patent and Trademark Office

Registered Apr. 29, 2008

TRADEMARK  
PRINCIPAL REGISTER

**Loes**

JAY-Y ENTERPRISE CO., INC. (CALIFORNIA  
CORPORATION)  
632 NEW YORK DRIVE  
POMONA, CA 91768

THE MARK CONSISTS OF THE LETTERS L, O, C,  
AND S IN SPECIAL STYLIZED FONT.

FOR: SUNGLASSES, IN CLASS 9 (U.S. CLS. 21, 23,  
26, 36 AND 38).

SER. NO. 78-800,219, FILED 1-26-2006.

FIRST USE 9-1-2005; IN COMMERCE 9-1-2005.

JOHN WILKE, EXAMINING ATTORNEY



US00D545348S

(12) **United States Design Patent**  
Chen

(10) Patent No.: **US D545,348 S**  
(45) Date of Patent: **\*\* Jun. 26, 2007**

(54) **EYEGLASSES**

(75) Inventor: **Ward Chen, Pomona, CA (US)**

(73) Assignee: **Jay-Y Enterprises, Inc., Pomona, CA (US)**

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/248,345**

(22) Filed: **Aug. 11, 2006**

(51) **LOC (8) Cl.** ..... **16-06**

(52) **U.S. Cl.** ..... **D16/326**

(58) **Field of Classification Search** ..... **D16/300-330,**  
**D16/101, 332-338; D29/109-110; D24/110.2;**  
**351/41, 44, 51-52, 62, 158, 92, 103-111,**  
**351/156, 61, 114-119, 121-123; 2/426-432,**  
**2/447-449, 441, 436, 434-437**

See application file for complete search history.

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

836,796 A	11/1906	Anderson
1,338,880 A	5/1920	Stevens
RE17,994 E	3/1931	Emons
2,031,771 A	2/1936	Grier
D116,259 S	8/1939	Cook
D145,288 S	7/1946	De Ciceo
D146,538 S	4/1947	Gagnon
2,482,664 A	9/1949	Gagnon
2,511,329 A	6/1950	Craig
2,561,402 A	7/1951	Nelson
D167,704 S	9/1952	McCardell
D168,903 S	2/1953	Neary
D169,724 S	6/1953	Bauer
2,761,353 A	9/1956	Eustic
D187,299 S	2/1960	Belir
2,949,638 A	8/1960	Butler
D189,436 S	12/1960	Carmichael
D192,884 S	5/1962	Petitto
D192,885 S *	5/1962	Petitto ..... D16/329
D193,028 S	6/1962	Petitto
D198,719 S	7/1964	McCulloch

D198,939 S	8/1964	Huggins
D199,150 S	9/1964	Carmichael
3,155,982 A	11/1964	Baratelli
3,156,756 A	11/1964	Seaver
D202,129 S	8/1965	Marchi
D202,130 S	8/1965	Mitchell
D204,417 S	4/1966	Shindler
D204,418 S	4/1966	Ramp
D204,496 S	4/1966	McCulloch
D204,812 S	5/1966	Shindler
D205,093 S	6/1966	Gabotiault
D205,419 S	8/1966	Griss
D209,095 S	10/1967	Ramp
D209,862 S	1/1968	McCracken
D210,418 S *	3/1968	Bloch ..... D16/326
D210,625 S	3/1968	Pollak
D214,292 S	5/1969	Mitchell
3,526,449 A	9/1970	Bolle et al.
3,531,189 A	9/1970	Petito
3,552,840 A	1/1971	Braget
3,684,356 A	8/1972	Bates
3,741,635 A	6/1973	Wortman
D228,026 S	7/1973	Shindler
4,074,932 A	2/1978	Thill

(Continued)

*Primary Examiner*—Raphael Barkai

(74) *Attorney, Agent, or Firm*—Overhauser Law Offices, LLC; Paul B. Overhauser; Dennis S. Schell

(57) **CLAIM**

I claim the ornamental design of the eyeglasses, as shown.

**DESCRIPTION**

FIG. 1 is a perspective view of the eyeglasses.

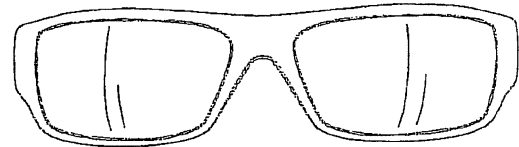
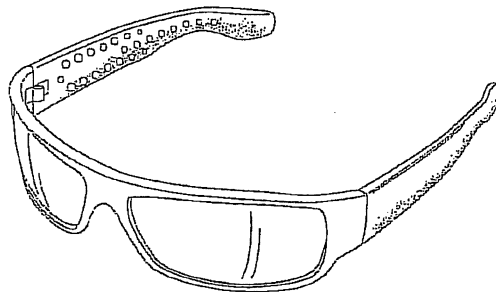
FIG. 2 is a front view of the eyeglasses.

FIG. 3 is a top view of the eyeglasses.

FIG. 4 is a side view of the eyeglasses; and,

FIG. 5 is a side view of the eyeglasses.

**1 Claim, 3 Drawing Sheets**



## US D545,348 S

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## U.S. PATENT DOCUMENTS

4,240,718 A	12/1980	Wichers	D399,243 S	10/1998	Jannard et al.
D268,683 S	4/1983	Tenny	D400,230 S	10/1998	Arnette
4,563,066 A	1/1986	Bononi	5,818,567 A	10/1998	Sakai
4,662,729 A	5/1987	Dobson	D400,908 S	11/1998	Arnette
4,732,465 A	3/1988	Field	D402,304 S	12/1998	Jannard et al.
4,786,158 A	11/1988	Barfus-Shanks	D403,692 S	1/1999	Arnette
D300,226 S	3/1989	Ramp	D405,816 S	2/1999	Cretin-Billet
D320,402 S	10/1991	Jannard	D407,428 S	3/1999	Jannard et al.
D322,975 S	1/1992	Bolle	D408,048 S	4/1999	Jannard et al.
D323,516 S	1/1992	Miklarian	D410,484 S	6/1999	Jannard et al.
D324,394 S	3/1992	Jannard	D415,188 S	10/1999	Thixton
5,137,342 A	8/1992	Jannard et al.	D420,035 S *	2/2000	Hartman ..... D16/325
D339,816 S	9/1993	Jackson	D420,036 S	2/2000	Yee
D342,534 S	12/1993	Jannard et al.	D420,037 S	2/2000	Conway
D347,014 S	5/1994	Arnette	D421,765 S	3/2000	Hsu
D354,501 S	1/1995	Jannard	D422,299 S	4/2000	Jannard et al.
5,459,533 A	10/1995	McCooeye	D423,034 S	4/2000	Arnette
D365,591 S	12/1995	Jannard et al.	D423,548 S	4/2000	Yee et al.
D366,667 S	1/1996	Arnette	D425,103 S	5/2000	Yee et al.
D366,890 S	2/1996	Arnette	D426,258 S	6/2000	Jannard et al.
D366,891 S	2/1996	Arnette	D426,568 S	6/2000	Conway
D366,892 S	2/1996	Arnette	D432,157 S	10/2000	Simioni
D368,732 S	4/1996	Lei	6,132,041 A	10/2000	Lin
D369,375 S	4/1996	Jannard et al.	6,196,681 B1	3/2001	Canavan
D369,614 S	5/1996	Fukuchi	D441,390 S	5/2001	Jannard et al.
D371,383 S	7/1996	Goldman	D445,442 S	7/2001	Lee
5,541,674 A	7/1996	Jannard et al.	D446,803 S	8/2001	Jannard
D372,726 S	8/1996	Simioni	D447,505 S	9/2001	Lane
D373,781 S	9/1996	Simioni et al.	D447,506 S	9/2001	Lane
D376,381 S	12/1996	Jannard	D447,764 S	9/2001	Chen
D376,810 S	12/1996	Ohie	D448,398 S	9/2001	Lane
D378,375 S	3/1997	Tsai	D451,534 S	12/2001	Chiou
D378,376 S	3/1997	Tsai	D453,783 S	2/2002	Ho
5,610,668 A	3/1997	Mage	D454,580 S	3/2002	Wolfe
D379,633 S	6/1997	Garneau	D456,441 S	4/2002	Jannard
5,638,145 A	6/1997	Jannard et al.	D456,833 S	5/2002	Chen
D380,766 S	7/1997	Simioni	D457,182 S	5/2002	Rask
5,648,832 A	7/1997	Houston et al.	D464,669 S	10/2002	Thixton et al.
D384,363 S	9/1997	Park	D472,915 S	4/2003	Rohrbach
D384,686 S	10/1997	Jannard et al.	D474,222 S	5/2003	Chen
D385,291 S	10/1997	Jannard et al.	D474,223 S	5/2003	Chen
D387,794 S	12/1997	Mage	D474,224 S	5/2003	Chen
D388,816 S	1/1998	Jannard	D475,393 S	6/2003	Lee
D389,504 S	1/1998	Simioni	D476,354 S	6/2003	Chen
D390,589 S	2/1998	Simioni	D477,834 S	7/2003	Sheldon
D391,596 S	3/1998	Simioni	D478,928 S	8/2003	Sheldon
D392,308 S	3/1998	Simioni	D483,392 S	12/2003	Chen
5,760,868 A	6/1998	Jannard et al.	D483,393 S	12/2003	Chen
D397,350 S	8/1998	Jannard et al.	D488,499 S *	4/2004	Mage ..... D16/326
D397,351 S	8/1998	Simioni	6,736,503 B1	5/2004	Chen
D398,021 S	9/1998	Bolle	D496,680 S	9/2004	Yee
D398,022 S	9/1998	Jannard	D500,781 S *	1/2005	Mage ..... D16/326
D399,236 S	10/1998	Khalifa	D532,033 S *	11/2006	Mangum ..... D16/326
D399,238 S	10/1998	Simioni	D534,573 S *	1/2007	Mage ..... D16/326
D399,239 S	10/1998	Jannard et al.			

\* cited by examiner

U.S. Patent

Jun. 26, 2007

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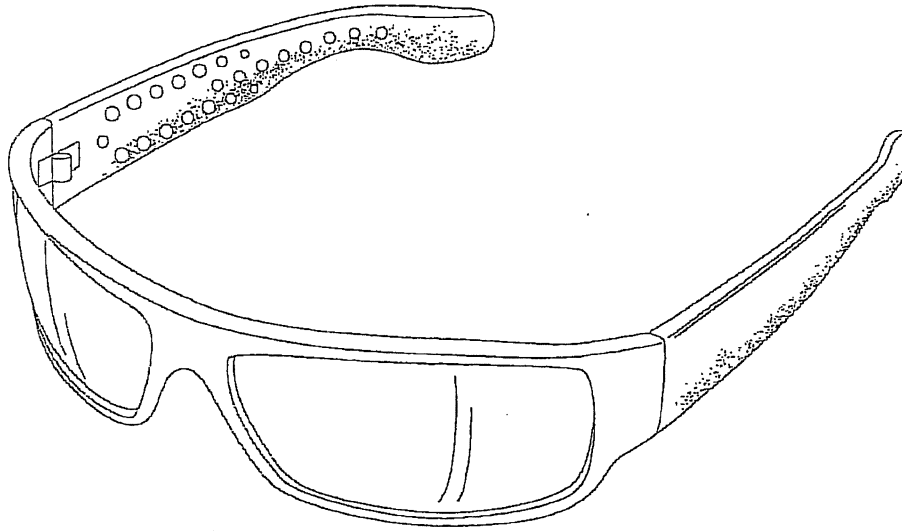


Fig. 1

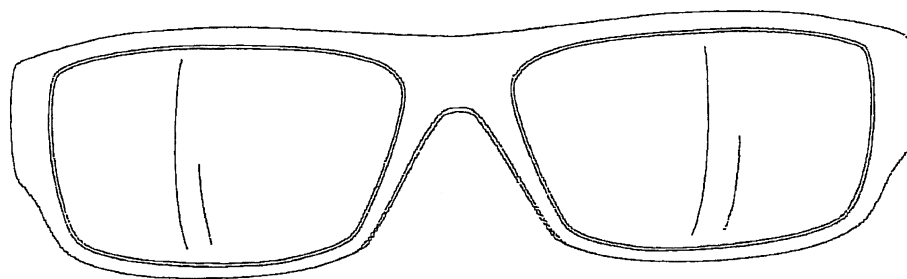


Fig. 2

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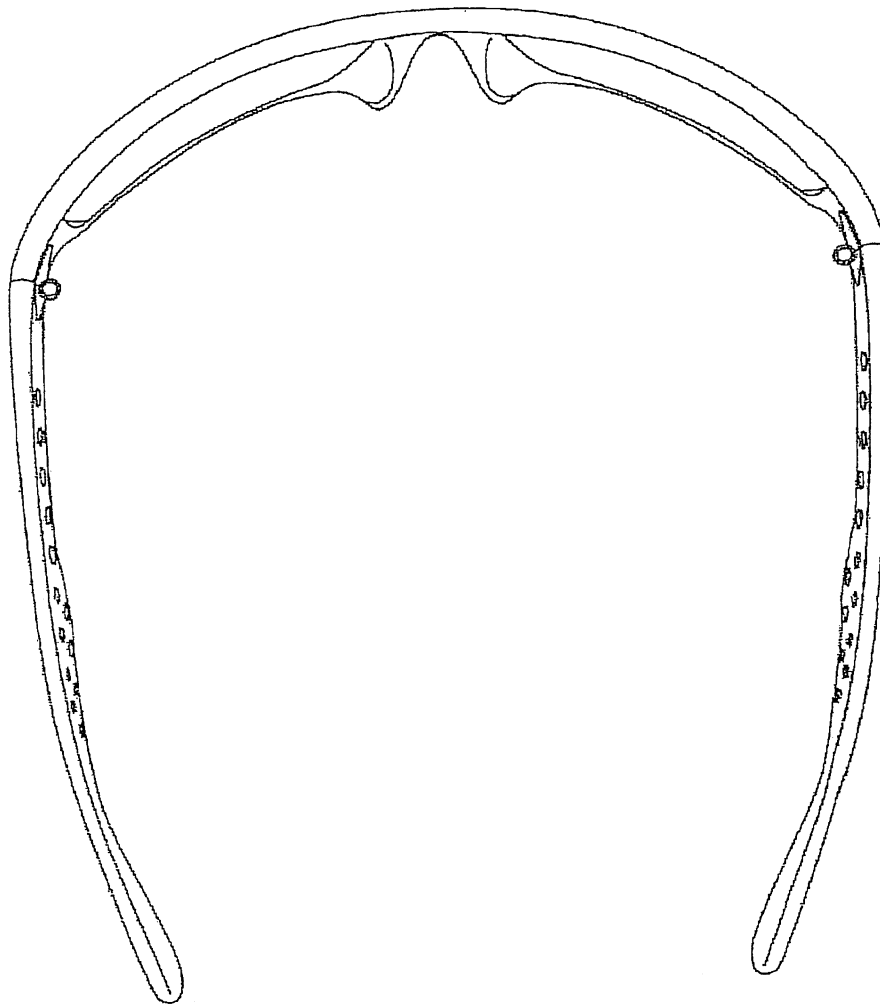


Fig.3

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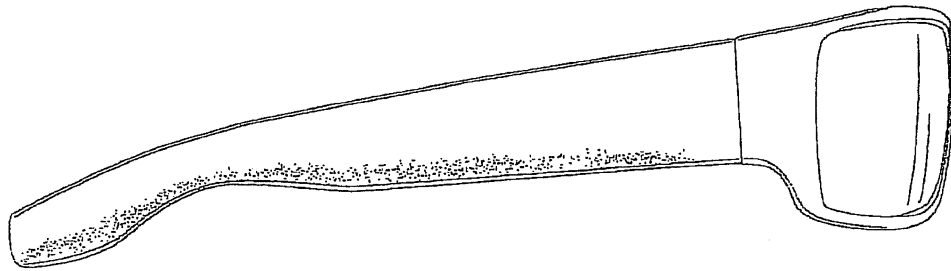


Fig. 4

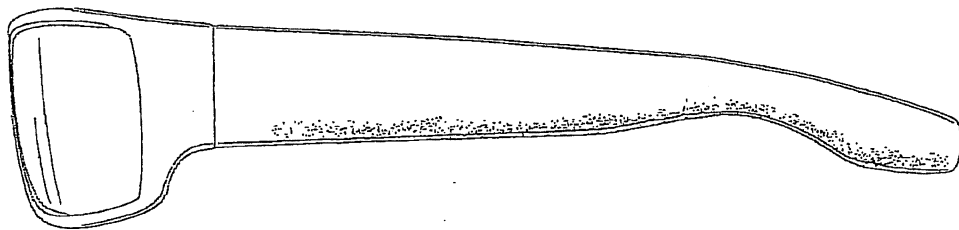
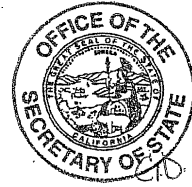
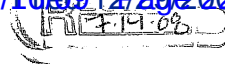


Fig. 5



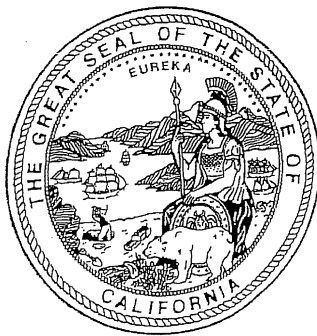
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I, DEBRA BOWEN, Secretary of State of the State of California,  
hereby certify:

That the attached transcript of 3 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this  
certificate and affix the Great Seal of the  
State of California this day of

JUL 10 2008



Jeha Bowca

DEBRA BOWEN  
Secretary of State





# State of California Secretary of State

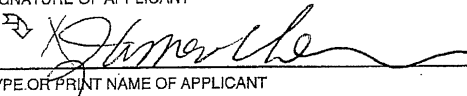
## REGISTRATION OF TRADEMARK OR SERVICE MARK

Pursuant to Business and Professions Code Section 14230

**NOTICE: READ ACCOMPANYING INSTRUCTIONS BEFORE COMPLETING THIS FORM**

REGISTRATION APPLICATION FOR:		
<input checked="" type="checkbox"/> <b>TRADEMARK</b> <input type="checkbox"/> <b>SERVICE MARK</b>		
1. APPLICANT NAME TIME PLAZA, INC.		
2. STREET ADDRESS (PROVIDE CALIFORNIA BUSINESS ADDRESS IF SERVICE MARK) 9329 KLINGERMANN ST	3. CITY AND STATE SOUTH EL MONTE, CA	4. ZIP CODE 91733
5. BUSINESS STRUCTURE (CHECK ONE)		
<input type="checkbox"/> LIMITED PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETOR		
<input type="checkbox"/> LIMITED LIABILITY COMPANY <input type="checkbox"/> HUSBAND AND WIFE, AS COMMUNITY PROPERTY		
<input type="checkbox"/> GENERAL PARTNERSHIP <input type="checkbox"/> OTHER (DESCRIBE) _____		
<input checked="" type="checkbox"/> CORPORATION (STATE OF INCORPORATION) <u>CA</u>		
6. NAMES OF THE GENERAL PARTNERS, IF APPLICANT IS A PARTNERSHIP		7. NAMES OF MEMBER(S) OR MANAGER(S), IF APPLICANT IS A LIMITED LIABILITY COMPANY
8. NAME AND/OR DESIGN OF MARK. (FOR DESIGN PROVIDE A BRIEF WRITTEN DESCRIPTION THAT CAN BE PICTURED IN THE MIND WITHOUT REFERENCE TO THE SPECIMENS. DO NOT DRAW THE DESIGN ON APPLICATION)		
The Trademark is made up of four hollowed letters: <u>LOCS</u> , and a darkened background.		
DISCLAIMER (IF APPLICABLE) NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM:		
9. DATE THE MARK WAS FIRST USED IN CALIFORNIA 02/01/2007		DATE THE MARK WAS FIRST USED ANYWHERE 02/01/2007
10. IF A TRADEMARK, LIST SPECIFIC GOODS. IF A SERVICE MARK, LIST SPECIFIC SERVICE.		THIS SPACE FOR FILING OFFICER USE
Sun-glasses and eye-glasses.		
CLASS NUMBER <u>21</u> (ONE CLASSIFICATION NUMBER ONLY)		<b>TRADE/SERVICE MARK</b> REG. NO. <u>0112431</u> CLASS NO. <u>INT. 21</u>  <b>FILED</b> In the office of the Secretary of State of the State of California <b>FEB 27 2007</b>
11. RETURN ACKNOWLEDGMENT TO: (TYPE OR PRINT)		
NAME _____ ADDRESS JAMES CHEN CITY 223 E. GARVEY AVE #148 STATE MONTEREY PARK, CA 91755 ZIP CODE _____		
SEC/STATE LP/TM 101 (REV. 2/97)		FILING FEE: \$70.00

(OVER)

<b>12. MANNER OF MARK USE.</b> CHECK ALL THAT APPLY.	
<b><u>FOR TRADEMARKS ONLY</u></b>	<b><u>FOR SERVICE MARKS ONLY</u></b>
<input type="checkbox"/> ON LABELS AND TAGS AFFIXED TO THE GOODS.	<input type="checkbox"/> ON BUSINESS SIGNS.
<input type="checkbox"/> ON LABELS AND TAGS AFFIXED TO CONTAINERS OF THE GOODS.	<input type="checkbox"/> ON ADVERTISING BROCHURES.
<input checked="" type="checkbox"/> BY PRINTING IT DIRECTLY ONTO THE GOODS.	<input type="checkbox"/> ON ADVERTISING LEAFLETS.
<input type="checkbox"/> BY PRINTING IT DIRECTLY ONTO THE CONTAINERS FOR THE GOODS.	<input type="checkbox"/> ON BUSINESS CARDS.
<input type="checkbox"/> OTHER _____	<input type="checkbox"/> ON LETTERHEADS.
	<input type="checkbox"/> ON MENUS.
	<input type="checkbox"/> OTHER _____
<b>13. SPECIMENS</b> CHECK ONE BOX BELOW. ENCLOSE THREE (3) IDENTICAL ORIGINAL SPECIMENS.	
<b><u>FOR TRADEMARKS ONLY</u></b>	<b><u>FOR SERVICE MARKS ONLY</u></b>
<input checked="" type="checkbox"/> ACTUAL LABELS.	<input type="checkbox"/> BUSINESS CARDS.
<input type="checkbox"/> ACTUAL TAGS.	<input type="checkbox"/> ADVERTISING BROCHURES.
<input type="checkbox"/> PHOTOGRAPHS OF THE GOODS/CONTAINERS SHOWING THE TRADEMARK.	<input type="checkbox"/> ADVERTISING LEAFLETS.
<input type="checkbox"/> FRONT PANELS OF A PAPER CONTAINER BEARING THE TRADEMARK.	<input type="checkbox"/> MENUS SHOWING THE MARK.
<input checked="" type="checkbox"/> OTHER <u>Enlarged version of the mark to be imprinted onto the "legs" of sunglasses and eyeglasses.</u>	<input type="checkbox"/> OTHER _____
<b>14. DECLARATION OF OWNERSHIP</b>  APPLICANT HEREWITH DECLARES THAT HE/SHE HAS READ THE ABOVE AND FOREGOING APPLICATION AND KNOWS THE CONTENTS THEREOF AND THAT THE FACTS SET OUT HEREIN ARE TRUE AND CORRECT AND THAT THE THREE SPECIMENS OF THE MARK SUBMITTED ARE TRUE AND CORRECT, AND TO HIS/HER BEST KNOWLEDGE AND BELIEF NO OTHER PERSON, FIRM, CORPORATION, UNION OR ASSOCIATION HAS THE RIGHT TO USE SAID MARK IN THIS STATE, EITHER IN IDENTICAL FORM OR IN SUCH NEAR RESEMBLANCE THERETO AS MIGHT BE CALCULATED TO DECEIVE OR CONFUSE.	
NAME OF CORPORATION/PARTNERSHIP/LIMITED LIABILITY COMPANY (IF APPLICABLE)  TIME PLAZA, INC. 0112431	
SIGNATURE OF APPLICANT 	IF PARTNER, MANAGER OR CORPORATE OFFICER, INCLUDE TITLE  President
TYPE OR PRINT NAME OF APPLICANT  JAMES CHEN	DATE  02/09/2007
TYPE OR PRINT THE NAME AND ADDRESS OF THE PERSON OR FIRM TO RECEIVE THE ACKNOWLEDGEMENT OF THE FILING. SEND THE SIGNED APPLICATION WITH ORIGINAL SIGNATURE(S) TO THE SECRETARY OF STATE, TRADEMARK UNIT, P.O. BOX 944225, SACRAMENTO, CA 94244-2250 WITH THE \$70.00 FILING FEE.	

0112431

**LOE**

